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PATRICK T. LUTHER, JR.

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**IN THE UNITED STATES DISTRICT COURT**

**FOR THE DISTRICT OF MONTANA**

**GREAT FALLS DIVISION**

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UNITED STATES OF AMERICA,	)	Nos. CR-05-39-GF-SEH
	)	CV-10-77-GF-SEH
Plaintiff/Respondent,	)	
	)	
vs.	)	<b>ORDER</b>
	)	
ALFRED FRANCIS CHARETTE,	)	
	)	
Defendant/Movant.	)	

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Defendant Alfred Charette (Charette) has moved to vacate, set aside or correct sentence under 28 U.S.C. § 2255. Charette is a federal prisoner proceeding *pro se*.

The present motion is an uncertified successive motion under 28 U.S.C. § 2255. His first § 2255 motion was denied on September 26, 2007. His second § 2255 motion was dismissed as uncertified on January 5, 2009. He has filed two petitions under 28 U.S.C. § 2241, attempting to elude the restrictions of § 2255. See Cause Nos. CV-08-69-GF-SEH and CV-09-28-GF-SEH. The Court lacks

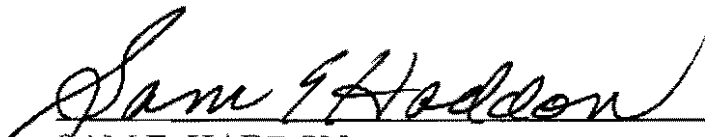
jurisdiction to consider a successive motion under § 2255 unless the Ninth Circuit Court of Appeals grants Charette leave to file one. 28 U.S.C. § 2255(h). The Circuit has not done so. The motion must be denied.

Charette is not entitled to a certificate of appealability. Lambright v. Stewart, 220 F.3d 1022, 1026 (9<sup>th</sup> Cir. 2000). Reasonable jurists would conclude that the present motion is a successive § 2255 motion.

ORDERED:

1. Charette's successive § 2255 motion (Doc. 136) is DENIED for lack of jurisdiction.
2. A certificate of appealability is DENIED.
3. The Clerk of Court is directed to enter judgment in favor of the United States and against Charette in the civil case.

DATED this 14<sup>th</sup> day of December, 2010.

  
S A M E. HADDON  
United States District Judge